IN THE SUPREME COURT OF WESTERN AUSTRALIA

CIV 1106 of 2022

B E T W E E N:

VIVIEN JIT SIEN YAP

First Plaintiff

and

EMPIRE SONS (AUSTRALIA) PTY LTD T/AS RAY WHITE (DALKEITH CLAREMONT) (ACN 604 259 145)

Second Plaintiff

and

Sandi Matic

Defendant

AFFIDAVIT OF Sandi Matic AFFIRMED ON 09 AUGUST 2022 IN SUPPORT OF MOTION FOR SUMMARY DISMISSAL OF PLAINTIFF'S APPLICATION FOR INTERLOCUTORY INJUNCTION & SUMMARY DISMISSAL OF PLAINTIFF'S APPLICATION FOR CONTEMPT OF COURT BY THE DEFENDANT

DATED 09 AUGUST 2022 WITH ATTACHMENTS

Date of document: 9 August 2022

Filed on behalf of: Sandi Matic

Prepared by:
Sandi Matic
11 Pearson Place
Floreat

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1	Affidavit of Sandi Matic	2-6
2	Sworn affidavits submitted previously Attachments	Separate attachments in PDF format
3	Original unaltered recording of telephone conversation with Mr Angus Mead previously submitted to Court & referred to in Judgement comments by Justice Solomon	Separate Attachment in .m4a file format

I, Sandi Matic OF 11 Pearson Place, Floreat in the State of Western Australia, self-employed, duly sworn make oath and say that:

1. I am submitting this affidavit under duress & any errors made due to my non-existent knowledge of how to write in legalese is not to be used against my benefit & I reserve all of my rights.

2. I have suffered a great deal of mental harm as a result of these frivolous and vexatious applications started by the first plaintiff and second plaintiff

3. My family has been subjected to duress and mental harm as a result of these allegations being printed online & in physical newspapers

4. For a period of 8 weeks I faced a serious prospects of homelessness due to inability to obtain accommodation through rental agencies as a result of the false allegations made by Vivian Yap.

Formal Challenge to 12 Presumptions Of Law & Notice of Understanding & Intent to Claim of Right (Separate attachment)

5. I formally challenged the 12 presumptions of law in a sworn affidavit dated 18 July 2022 and submitted it to Chief Magistrate Heath of Perth Magistrates Court of Western Australia

6. The affidavit with challenge to 12 presumptions of law stands unrebutted by Chief Magistrate of Magistrates Court of Western Australia

7. I issued a Notice of Understanding and Intent to Claim of right to Chief Magistrate Heath of Western Australia Magistrates Court Perth in a sworn affidavit dated 18 July 2022

8. The Notice of Understanding and intent to claim of right stands unrebutted by Chief Magistrate of Magistrates Court of Western Australia

Sworn affidavits submitted to Supreme Court of Western Australia (Separate attachment)

9. I have written and affirmed an affidavit titled "Affidavit of Sandi, son of Pavao & Sabina)affirmed on 2nd March 2022

10. The contents of this affidavit are true & correct

11. I submitted to the Supreme Court of Western Australia on 3rd March 2022 a Sworn Affidavit titled 'Affidavit of Sandi, son of Pavao and Sabina' dated 2 March 2022

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11.1 Further to this, the same affidavit has been submitted to Chief Justice of the Supreme Court of Western Australia on 7th April 2022

11.2 This affidavit stands unrebutted by the plaintiff & plaintiff's solicitors

11.3 This affidavit stands unrebutted by any of the judicial support workers

11.4 This affidavit stands unrebutted by Justice Marcus Solomon

11.5 This affidavit stands unrebutted by Chief Justice Peter Damien Quinlan of The Supreme Court of Western Australia

Affidavit of Sandi Matic with attachments "SM-1"to "Sm-3" affirmed 2 March 2022. (Separate attachment)

12. I swore an this affidavit in response to affidavit by Mr Angus Mead sworn in on 28 March 2022 as part of the CIV 1106 of 2022 in The Supreme Court of Western Australia

13. In this affidavit I rebutted claims made by Mr Mead regarding alleged threats made during telephone calls between Mr Mead and me, Sandi the living man.

14. Attached to affidavit as a transcript of the unedited and original recorded telephone conversation between Mr Mead and me, Sandi the living man.

15. The affidavit & transcript show that no threats were made.

16. This affidavit was claimed to be rebutted by Mr Angus Mead by adding further allegations that the script was manipulated & edited to remove profanity threats.

THIRD AFFIDAVIT OF Sandi, son of Pavao and Sabina WITH ATTACHMENTS "New Recording.m4a" AFFIRMED 11 April 2022

17. Telephone recording was provided to the Supreme Court of Western Australia in a Sworn affidavit dating 11 April 2022

18. This affidavit included verified metadata showing the audio is original and unedited and unaltered

19. The audio recording was also submitted to the Court & to the plaintiff

20. In preliminary judgements for continuance of interim injunction Justice Solomon observed the following in comments 91-94

91 *The Second Affidavit of Mr Mead, in part, served to respond to this transcript. Mr Mead suggested that the transcript was 'generally consistent with [his] recollection' of the conversation, but that 'some matters have been omitted or edited'. These alterations, according to Mr Mead, included the removal of*

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profanity used by Mr Matic and the removal of statements such as the threat to 'make Vivien feel the pain I am feeling'. The effect of these alterations, Mr Mead's suggested, was to reduce the aggression and hostility he perceived in Mr Matic's tone during the conversation.[31]

92 *By consent of the plaintiffs and the court, Mr Matic provided a recording of the phone call of 31 January 2022 via email on 8 April 2022. At the hearing of 12 April 2022, counsel for the plaintiffs accepted that the transcript annexed to the Second Affidavit of Mr Matic was an accurate transcript of the conversation.*

93 *Having listened to the recording,* ***it cannot be said that the highlighted section was communicated with any particular hostility*** *over and above the rest of the conversation. I did not consider that, objectively, the tone of Mr Matic in the conversation was unduly aggressive.*

94 *In respect of the conversation of 31 January 2022 the following may be observed:*

(a) *the conversation was recorded by Mr Matic and* ***accurately transcribed and annexed to his affidavit of 2 March 2022****;*

(b) *Mr Mead's recollection of the conversation* ***is not accurate in a number of respects****. His assertion that the transcript has been altered, or parts omitted,* ***appears to be wrong****; and*

(c) *Mr Mead's summary note of the* ***conversation is not entirely accurate.*** *The conversation did not appear to have included statements by Mr Mead that* ***'I am going to make her pay'*** *or 'fee****l the pain I currently feel'****. Other aspects of the summary appear to be accurate, including the threat to put up billboards and that Ms Yap is the cause of Mr Matic losing his family. Mr Mead's characterisation of Mr Matic as having been*

'extremely aggressive' throughout the call is ***not in my view an objectively fair characterisation of the tone and content of Mr Matic's conduct throughout the call.***

21. 5 Additional sworn affidavits were submitted on 13 April 2022 rebutting the plaintiff's claims of contempt of court by defendant.

22. All 5 of these affidavits currently stand unrebutted.

Non Disclosure of Material information as part of ex parte application

23. In these affidavits I have said that Martin Bennet from Bennet and Co (the solicitors for plaintiff) had knowledge of the telephone recording but did not disclose to the court as part of ex parte application.

24. I have made the same claim during the hearings in chambers of Justice Solomon

25. Neither of these claims have been rebutted by Martin Bennetrt.

Requirements of justice between the parties;

26. At the very start of proceedings I offered to sign a mutual undertaking by myself & Vivian Yap to have this matter settled without any further court involvement

27. The mutual undertaking was rejected by plaintiff and their legal council.

28. The inconvenience and injustice & severe harm and constant state of duress caused by these proceedings far outweighs any notion of potential "fear of an act" to be done, especially given the context of the conversation which clearly stipulates that no unlawful action was threatened to be conducted.

Previously submitted conclusions in Seventh Affidavit which stand unrebutted

29. There was **no basis for urgency** of this application to be granted to be heard ex-parte evidenced by the time that has passed since the original dispute has been raised to the date of application for injunction AS WELL AS, the time that has passed since the alleged comments on the phone and date of application (**9 days**)

29.34 Initial dispute started in **October 2021**, no threats of any kind had been made at any time

29.35 The applicant waited **10 days since** these alleged threats were made, but could not allow 1 additional day to summon and notify defendant ESPECIALLY GIVEN that no acts of attending home opens had been done nor anything else alleged but instead was all just put to paper by Mr Angus Mead

29.36 Why could the Plaintiff and its Lawyers not done either of the following:

(a) Apply for the injunction sooner (**even 1 single day**) and summon me to the hearing

(b) Wait an extra day to have the hearing on Friday and serve me with a summons the day prior

30. [redacted]

30.1 [redacted]

30.2

31.

31.1

31.2

31.3

31.4

32.

33.

Conclusion:

34. None of the Sworn affidavits submitted by Sandi Matic rebutted and therefore stand unrebutted.

(a) AN UNREBUTTED AFFIDAVIT STANDS AS TRUTH IN COMMERCE.

(b) AN UNREBUTTED AFFIDAVIT BECOMES THE JUDGMENT IN COMMERCE.

35. The application for Interlocutory Injunction is frivolous and vexatious & is void due to material non-disclosure.

36. The application for Contempt of Court by Defendant is frivolous, vexatious and is an abuse of process.

37. The plaintiff's applications are lacking in merit or substance as to be not fairly arguable.

38. The plaintiff's applications therefore do not have reasonable prospects of success.

Affirmed by Sandi Matic at Perth }
In the State of Western Australia on }
The 16th day of August 2022 }

Sandi Matic
(Autograph)
De Jure

Before me, (PATRICIA DAGG JP a Justice of the Peace }
OR A legal practitioner who has held a practice certificate }
for at least 2 years and who holds a current practice }
certificate. }

Patricia Dagg
(Signature of Witness)

Patricia Dagg J.P. 8822
Justice of the Peace for
the State of Western Australia